

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

OPINION AND ORDER

Tommy Lampley, a *pro se* prisoner, filed a motion [Doc. No. 43] pursuant to Fed. R. Civ. 37(a)(2)(B)(3) to compel the defendants and Prison Health Care Services (aka Correctional Medical Services, “CMS”), a non-party, to produce the documents he previously requested. The defendants, by counsel, filed a response [Doc. No. 53] to the motion.

Defendants' counsel correctly points out Lampley did not provide a statement that he "has *in good faith* conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action" as required by Fed. R. Civ. P. 37(a)(2)(B) (emphasis added). Counsel also contends Lampley's motion to compel is actually a third set of discovery requests. Moreover, she maintains that Lampley did not inform her there was a discovery dispute or that he wanted the defendants to supplement their responses to his earlier discovery requests.

Because it appears Lampley has not complied with Fed. R. Civ. P. 37(a)(2)(B), his motion to compel [Doc. No. 43] is not ripe and is, therefore, **DENIED**. Adherence to the Rules of Civil Procedure is a necessary predicate before seeking the courts intervention in a discovery dispute.

SO ORDERED.

Entered this 19th of March, 2009.

S/Christopher A. Nuechterlein

Christopher A. Nuechterlein

United States Magistrate Judge